SUPREME COURT MINUTES THURSDAY, JANUARY 12, 2012 SAN FRANCISCO, CALIFORNIA

S177401 B208225 Second Appellate District, Div. 5 O'NEIL (BARBARA J.) v. CRANE CO.

Opinion filed: Judgment reversed

The decision of the Court of Appeal is reversed, and the case is remanded for entry of a judgment of nonsuit in favor of defendants.

Majority Opinion by Corrigan, J.

-- joined by Cantil-Sakauye, C. J., Kennard, Baxter, Werdegar, Chin, and Liu, JJ.

S181611 G040151 Fourth Appellate District, Div. 3 PEOPLE v. NELSON (SAMUEL MOSES)

Opinion filed: Judgment reversed

Consistent with *Davis, supra*, 512 U.S. 452, we hold that, once a juvenile suspect has made a valid waiver of his or her *Miranda* rights, any subsequent assertion of the right to counsel or right to silence during questioning must be articulated sufficiently clearly that a reasonable police officer in the circumstances would understand the statement to be an invocation of such rights. Because this standard is an objective one, the invocation determination does not call for an evaluation of the juvenile's state of mind or subjective desire. We caution, however, that a particular statement found insufficiently clear in the circumstances of one case may nonetheless be deemed an unambiguous and unequivocal invocation when considered in the context of another case.

On this record, we find the trial court properly determined that a reasonable officer would not have understood defendant to be clearly and unequivocally asserting his *Miranda* rights when he asked to speak to his mother, or when he indicated his relatives did not want him to take a polygraph test without first speaking to his mother or a lawyer, or when he made references to being left alone. Accordingly, the investigators were not required to halt the interrogation at any point, and defendant's incriminating statements were admissible at trial. We reverse the judgment of the Court of Appeal and remand the matter to that court for further proceedings consistent with the views expressed herein.

Majority Opinion by Baxter, J.

-- joined by Cantil-Sakauye, C. J., Kennard, Werdegar, Chin, Corrigan, and Liu, JJ.

S199328 G046319 Fourth Appellate District, Div. 3 MEGA RV CORP. v. S.C. (HAYES)

Petition for review & application for stay denied

S197851 E051012 Fourth Appellate District, Div. 2 MIR (JEHAN ZEB) v. SAN ANTONIO COMMUNITY HOSPITAL

The time for granting or denying review in the above-entitled matter is hereby extended to February 17, 2012.

S198139 G044850 Fourth Appellate District, Div. 3 **IN RE J.V.** The time for granting or denying review in the above-entitled matter is hereby extended to February 17, 2012.

S198193 B230060 Second Appellate District, Div. 8 PEOPLE v. WILLIAMS (DAVID LEE)

The time for granting or denying review in the above-entitled matter is hereby extended to February 21, 2012.

S198205 B224424 Second Appellate District, Div. 8 **PEOPLE v. FOX (KALVIN D)**The time for granting or denying review in the above-entitled matter is hereby extended to February 21, 2012.

S198206 F060387 Fifth Appellate District PEOPLE v. ISLAS (SAUL) The time for granting or denying review in the above-entitled matter is hereby extended to February 21, 2012.

S198211

B235834 Second Appellate District, Div. 3

WORKERS'

COMPENSATION APPEALS

BOARD & METROPOLITAN

PROVISIONS, ARGONAUT

INSURANCE COMPANY

The time for granting or denying review in the above-entitled matter is hereby extended to February 21, 2012.

PEOPLE v. POWELL (CARL DEVON)

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Paul E. O'Connor's representation that he anticipates filing the respondent's brief by March 9, 2012, counsel's request for an extension of time in which to file that brief is granted to March 9, 2012. After that date, no further extension is contemplated.

S047868

PEOPLE v. GEORGE (JOHNATON SAMPSON)

Extension of time granted

Good cause appearing, and based upon counsel Bruce Eric Cohen's representation that he anticipates filing the appellant's reply brief by April 5, 2012, counsel's request for an extension of time in which to file that brief is granted to March 6, 2012. After that date, only one further extension totaling about 30 additional days will be granted.

S049626

PEOPLE v. HAJEK (STEPHEN EDWARD) & VO (LOI TAN)

Extension of time granted

Good cause appearing, and based upon Senior Deputy State Public Defender Alison Pease's representation that she anticipates filing appellant Stephen Edward Hajek's reply brief by February 8, 2012, counsel's request for an extension of time in which to file that brief is granted to February 8, 2012. After that date, no further extension will be granted.

S062417

PEOPLE v. SILVERIA (DANIEL TODD) & TRAVIS (JOHN RAYMOND)

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Arthur P. Beever's representation that he anticipates filing the respondent's brief by January 27, 2012, counsel's request for an extension of time in which to file that brief is granted to January 27, 2012. After that date, no further extension is contemplated.

S075725

PEOPLE v. JONES (KIONGOZI)

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Viet H. Nguyen's representation that he anticipates filing the respondent's brief by April 7, 2012, counsel's request for an

extension of time in which to file that brief is granted to March 9, 2012. After that date, only one further extension totaling about 30 additional days is contemplated.

S078895

PEOPLE v. SIVONGXXAY (VAENE)

Extension of time granted

Good cause appearing, and based upon Deputy State Public Defender Douglas Ward's representation that he anticipates filing the appellant's opening brief by August 1, 2012, counsel's request for an extension of time in which to file that brief is granted to March 5, 2012. After that date, only three further extensions totaling about 150 additional days will be granted. An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S087569

PEOPLE v. SANCHEZ (JUAN)

Extension of time granted

Good cause appearing, and based upon Senior Deputy State Public Defender John Fresquez's representation that he anticipates filing the appellant's opening brief by May 2013, counsel's request for an extension of time in which to file that brief is granted to March 6, 2012. After that date, only seven further extensions totaling about 420 additional days will be granted. An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S104144

PEOPLE v. PEREZ, JR., (JOSEPH ANDREW)

Extension of time granted

Good cause appearing, and based upon counsel A. Richard Ellis's representation that he anticipates filing the appellant's opening brief by April 2012, counsel's request for an extension of time in which to file that brief is granted to March 6, 2012. After that date, only one further extension totaling about 30 additional days is contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S111336

BENAVIDES FIGUEROA (VICENTE) ON H.C.

Extension of time granted

Good cause appearing, and based upon counsel Cristina Bordé's representation that she anticipates filing the reply to the informal response to the petition for writ of habeas corpus by November 2012, counsel's request for an extension of time in which to file that document is granted to March 6, 2012. After that date, only four further extensions totaling about 240

additional days are contemplated.

S112442

PEOPLE v. SMITH, JR., (PAUL GORDON)

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Angelo S. Edralin's representation that he anticipates filing the respondent's brief by February 1, 2012, counsel's request for an extension of time in which to file that brief is granted to February 1, 2012. After that date, no further extension is contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S113962

PEOPLE v. PARKER (CALVIN LAMONT)

Extension of time granted

Appellant's request for relief from default is granted.

Good cause appearing, and based upon counsel Kathryn K. Andrews's representation that she anticipates filing the appellant's opening brief by August 2012, counsel's request for an extension of time in which to file that brief is granted to February 22, 2012. After that date, only three further extensions totaling about 180 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S114228

PEOPLE v. DUONG (ANH THE)

Extension of time granted

Good cause appearing, and based upon counsel Debra S. Sabah Press's representation that she anticipates filing the appellant's opening brief by January 31, 2013, counsel's request for an extension of time in which to file that brief is granted to March 19, 2012. After that date, only six further extensions totaling about 320 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S120382

PEOPLE v. SANCHEZ (VINCENT HENRY)

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to March 6, 2012.

PEOPLE v. FLINNER (MICHAEL WILLIAM)

Extension of time granted

Good cause appearing, and based upon counsel Patrick Morgan Ford's representation that he anticipates filing the appellant's opening brief by early summer 2012, counsel's request for an extension of time in which to file that brief is granted to February 28, 2012. After that date, only two further extensions totaling about 160 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S127119

PEOPLE v. GIVENS (TODD)

Extension of time granted

On application of appellant and good cause appearing, it is ordered that the time to serve and file appellant's opening brief is extended to March 6, 2012.

S133660

PEOPLE v. AMEZCUA (OSWALDO) & FLORES (JOSEPH CONRAD)

Extension of time granted

Good cause appearing, and based upon counsel David H. Goodwin's representation that he anticipates filing appellant Joseph Conrad Flores's opening brief by June 2012, counsel's request for an extension of time in which to file that brief is granted to February 27, 2012. After that date, only two further extensions totaling about 120 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S135272

PEOPLE v. DWORAK (DOUGLAS EDWARD)

Extension of time granted

Good cause appearing, and based upon counsel Diane Nichols's representation that she anticipates filing the appellant's opening brief by May 1, 2013, counsel's request for an extension of time in which to file that brief is granted to March 6, 2012. After that date, only seven further extensions totaling about 420 additional days will be granted.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

PEOPLE v. MORALES (ALFONSO IGNACIO)

Extension of time granted

Good cause appearing, and based upon counsel Diane E. Berley's representation that she anticipates filing the appellant's opening brief by June 30, 2012, counsel's request for an extension of time in which to file that brief is granted to March 5, 2012. After that date, only two further extensions totaling about 120 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S137290

PEOPLE v. GOVIN (PRAVIN)

Extension of time granted

Good cause appearing, and based upon counsel Conrad Petermann's representation that he anticipates filing the appellant's opening brief by March 5, 2012, counsel's request for an extension of time in which to file that brief is granted to March 5, 2012. After that date, no further extension is contemplated.

S139103

PEOPLE v. JACKSON (BAILEY LAMAR)

Extension of time granted

Good cause appearing, and based upon counsel Richard I. Targow's representation that he anticipates filing the appellant's opening brief by June 30, 2012, counsel's request for an extension of time in which to file that brief is granted to March 6, 2012. After that date, only two further extensions totaling about 120 additional days are contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

S140173

PEOPLE v. FRIEDMAN (KENNETH)

Extension of time granted

Good cause appearing, and based upon counsel John F. Schuck's representation that he anticipates filing the appellant's opening brief by March 7, 2012, counsel's request for an extension of time in which to file that brief is granted to March 7, 2012. After that date, no further extension is contemplated.

An application to file an overlength brief must be served and filed no later than 60 days before the anticipated filing date. (See Cal. Rules of Court, rule 8.631(d)(1)(A)(ii) & (B)(ii).)

VIRGIL (LESTER WAYNE) ON H.C.

Extension of time granted

Good cause appearing, and based upon counsel Manuel J. Baglanis's representation that he anticipates filing the reply to the informal response to the petition for writ of habeas corpus by March 6, 2012, counsel's request for an extension of time in which to file that document is granted to March 6, 2012. After that date, no further extension will be granted.

S191869

CARRASCO (ROBERT) ON H.C.

Extension of time granted

Good cause appearing, and based upon Deputy Attorney General Roberta L. Davis's representation that she anticipates filing the informal response to the petition for writ of habeas corpus by March 6, 2012, counsel's request for an extension of time in which to file that document is granted to March 6, 2012. After that date, no further extension is contemplated.

S196398

DANKS (JOSEPH MARTIN) ON H.C.

Extension of time granted

Good cause appearing, and based upon counsel Gary D. Sowards's representation that he anticipates filing the reply to the informal response to the petition for writ of habeas corpus by March 17, 2012, counsel's request for an extension of time in which to file that document is granted to March 17, 2012. After that date, no further extension is contemplated.

S197503 GRANT ON DISCIPLINE

Extension of time granted – GARY DOUGLASS GRANT

On application of petitioner and good cause appearing, it is ordered that the time to serve and file the response to petition for writ of review is extended to January 23, 2012.

S197694 G041811 Fourth Appellate District, Div. 3

GIRALDIN (WILLIAM A.), ESTATE OF

Extension of time granted

On application of respondents and good cause appearing, it is ordered that the time to serve and file the opening brief on the merits is extended to February 21, 2012.

S197036 G043384 Fourth Appellate District, Div. 3 PEOPLE v. GONZALES (MICHAEL CONTRERAS)

Counsel appointment order filed

Upon request of appellant for appointment of counsel, Christopher Nalls is hereby appointed to represent appellant on the appeal now pending in this court.

S196292

STANWYCK ON DISCIPLINE

Recommended discipline imposed: disbarred

The court orders that STEVEN JAY STANWYCK, State Bar Number 48728, is disbarred from the practice of law in California and that his name is stricken from the roll of attorneys.

STEVEN JAY STANWYCK must also comply with rule 9.20 of the California Rules of Court and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S197703

MISTRY ON DISCIPLINE

Recommended discipline imposed: disbarred

The court orders that TANMAY PRAMOD MISTRY, State Bar Number 251425, is disbarred from the practice of law in California and that his name is stricken from the roll of attorneys. TANMAY PRAMOD MISTRY must make restitution as recommended by the Hearing Department of the State Bar Court in its Decision filed on September 12, 2011. Any restitution owed to the Client Security Fund is enforceable as provided in Business and Professions Code section 6140.5, subdivisions (c) and (d).

TANMAY PRAMOD MISTRY must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S197706

CURTIS ON DISCIPLINE

Recommended discipline imposed

The court orders that JEAN MARIE CURTIS, State Bar Number 124211, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and she is placed on probation for two years subject to the following conditions:

- 1. JEAN MARIE CURTIS is suspended from the practice of law for the first 90 days of probation;
- 2. JEAN MARIE CURTIS must comply with the other conditions of probation recommended

- by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on September 21, 2011; and
- 3. At the expiration of the period of probation, if JEAN MARIE CURTIS has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

JEAN MARIE CURTIS must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) JEAN MARIE CURTIS must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-third of the costs must be paid with her membership fees for each of the years 2013, 2014, and 2015. If JEAN MARIE CURTIS fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

S197715

EMRICH ON DISCIPLINE

Recommended discipline imposed

The court orders that SUSAN ELIZABETH EMRICH, State Bar Number 171174, is suspended from the practice of law in California for three years, execution of that period of suspension is stayed, and she is placed on probation for five years subject to the following conditions:

- 1. SUSAN ELIZABETH EMRICH is suspended from the practice of law for a minimum of the first two years of probation, and she will remain suspended until the following requirements are satisfied:
 - i. She must provide proof to the State Bar Court of her rehabilitation, fitness to practice and learning and ability in the general law before her suspension will be terminated. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.4(c)(ii).)
- 2. SUSAN ELIZABETH EMRICH must also comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on September 16, 2011.
- 3. At the expiration of the period of probation, if SUSAN ELIZABETH EMRICH has complied with all conditions of probation, the three-year period of stayed suspension will be satisfied and that suspension will be terminated.

SUSAN ELIZABETH EMRICH must also take and pass the Multistate Professional Responsibility Examination during the period of her suspension and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

SUSAN ELIZABETH EMRICH must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-third of the costs must be paid with membership fees for each of the years 2013, 2014, and 2015. If SUSAN ELIZABETH EMRICH fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

S197717

IVKER ON DISCIPLINE

Recommended discipline imposed

The court orders that RICHARD NEIL IVKER, State Bar Number 96282, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

- 1. RICHARD NEIL IVKER is suspended from the practice of law for the first one year of probation;
- 2. RICHARD NEIL IVKER must comply with the other conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on September 12, 2011; and
- 3. At the expiration of the period of probation, if RICHARD NEIL IVKER has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

RICHARD NEIL IVKER must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation in Los Angeles within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

RICHARD NEIL IVKER must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order. Failure to do so may result in disbarment or suspension.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-half of the costs must be paid with his membership fees for each of the years 2013 and 2014. If RICHARD NEIL IVKER fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and payable immediately.

AMAMGBO ON DISCIPLINE

Recommended discipline imposed

The court orders that DONALD CHIDI AMAMGBO, State Bar Number 164716, is suspended from the practice of law in California for one year, execution of that period of suspension is stayed, and he is placed on probation for two years subject to the following conditions:

- 1. DONALD CHIDI AMAMGBO must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on September 19, 2011; and
- 2. At the expiration of the period of probation, if DONALD CHIDI AMAMGBO has complied with the terms of probation, the one-year period of stayed suspension will be satisfied and that suspension will be terminated.

DONALD CHIDI AMAMGBO must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).) Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment. One-half of the costs must be paid with his membership fees for each of the years 2013 and 2014. If DONALD CHIDI AMAMGBO fails to pay any installment as described above, or as may be modified by the State Bar Court, the remaining balance is due and

S197729

payable immediately.

MYERS ON DISCIPLINE

Recommended discipline imposed: disbarred

The court orders that PHILLIP ERIC MYERS, State Bar Number 77543, is disbarred from the practice of law in California and that his name is stricken from the roll of attorneys.

PHILLIP ERIC MYERS must also comply with California Rules of Court, rule 9.20, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of this order.

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

S197731

SIMMONS ON DISCIPLINE

Recommended discipline imposed

The court orders that KATHIE JEANNE SIMMONS, State Bar Number 129727, is suspended from the practice of law in California for two years, execution of that period of suspension is stayed, and she is placed on probation for two years subject to the following conditions:

1. KATHIE JEANNE SIMMONS s must comply with the conditions of probation recommended by the Hearing Department of the State Bar Court in its Order Approving Stipulation filed on September 12, 2011; and

2. At the expiration of the period of probation, if KATHIE JEANNE SIMMONS has complied with the terms of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.

KATHIE JEANNE SIMMONS must also take and pass the Multistate Professional Responsibility Examination within one year after the effective date of this order and provide satisfactory proof of such passage to the State Bar's Office of Probation within the same period. Failure to do so may result in suspension. (Cal. Rules of Court, rule 9.10(b).)

Costs are awarded to the State Bar in accordance with Business and Professions Code section 6086.10 and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.